



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

October 5, 1998

Mr. Leonard Peck, Jr.  
Assistant General Counsel  
Texas Department of Criminal Justice  
P.O. Box 4004  
Huntsville, Texas 77342-4004

OR98-2365

Dear Mr. Peck:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 118379.

The Texas Department of Criminal Justice (the "department") received a request for a variety of documents associated with a particular employee grievance and you indicate that most of the information has been released to the requestor. You submit to this office the remaining documents you believe responsive to the request. You assert that the requested materials are excepted from required public disclosure based on section 552.107 of the Government Code.

You contend that the requested information is protected from disclosure by section 552.107. Section 552.107(1) excepts information that an attorney cannot disclose because of a duty to his client. In Open Records Decision No. 574 (1990), this office concluded that section 552.107 excepts from public disclosure only "privileged information," that is, information that reflects either confidential communications from the client to the attorney or the attorney's legal advice or opinions; it does not apply to all client information held by a governmental body's attorney. *Id.* at 5. When communications from attorney to client do not reveal the client's communications to the attorney, section 552.107 protects them only to the extent that such communications reveal the attorney's legal opinion or advice. *Id.* at 3. In addition, basically factual communications from attorney to client, or between attorneys representing the client, are not protected. *Id.* You provide a legal memorandum from the General Counsel staff to department personnel as well as the marked portion of another memorandum. We agree that the information at issue does contain client confidences or attorney advice or opinion. Therefore, the information may be withheld pursuant to section 552.107.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink, appearing to read 'Janet T. Monteros', with a long horizontal flourish extending to the right.

Janet T. Monteros  
Assistant Attorney General  
Open Records Division

JIM/nc

Ref.: ID# 118379

Enclosures: Submitted documents

cc: Mr. Don C. Moore  
64 Spring Circle Loop  
Huntsville, Texas 77340  
(w/o enclosures)